

# *The Commonwealth of Massachusetts*

*Department of Revenue*

*Leverett Saltonstall Building,*

*100 Cambridge Street, Boston 02204*

JOYCE HAMPERS  
COMMISSIONER

March 20, 1981

("Company") intends to buy or rent closed-circuit television equipment, install the equipment in supermarkets, and sell commercial time on the equipment to advertisers. The advertisers will not include the supermarkets themselves.

Advertisers will pay the Company on the basis of (1) commercial time; and (2) customers in the supermarket where the equipment is installed during the advertising period. The supermarkets will receive as compensation a percentage of gross advertising revenues from installations on their premises.

You inquire whether the Massachusetts sales tax will apply to such sales of commercial time by the Company.

Massachusetts General Laws Chapter 64H, Section 2 imposes an excise on sales at retail of tangible personal property in the Commonwealth. "Sale" is defined in Chapter 64H, Section 1(12) as including

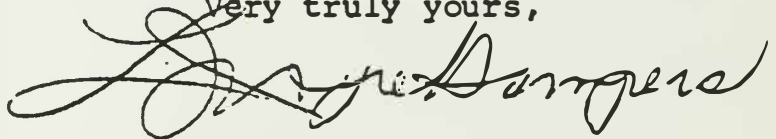
"[a]ny transfer of title or possession, or both, exchange, barter, lease, rental, conditional or otherwise, of tangible personal property for a consideration, in any manner or by any means whatsoever."

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Section 1(13) of Chapter 64H provides that "sale at retail" does not include "personal service transactions which involve no sale or which involve sales as inconsequential elements for which no separate charges are made;" but under Section 1(14)(b) any amount paid for any services that are a part of a sale must be included in the "sales price" on which the tax is based.

Based on the foregoing facts, it is ruled that the Company's sales of commercial time on closed-circuit television equipment will not be subject to the sales tax. Of course, the Company must pay the sales tax on its purchase or rental of the equipment.

Very truly yours,

A handwritten signature in cursive script, appearing to read "James J. Danvers".

Commissioner of Revenue

LJH:JXD:mf

LR 81-25